

JANUARY 18, 2006

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FLOOR DEBATE

January 18, 2006 LB 57, 87A, 454, 1158-1162

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Reverend Jane Heenan from Holy Trinity Episcopal Church in Lincoln, Senator Beutler's district. Reverend, please.

PASTOR HEENAN: (Prayer offered.)

SENATOR CUDABACK: Thank you, Reverend Heenan, for being with us this morning. We appreciate you being here. Senator Beutler represents the 28th District. I call the tenth day of the Ninety-Ninth Legislature, Second Session, to order. Members, please record your presence. Record please, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Any corrections for the Journal?

CLERK: No corrections, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Mr. President, Reference report referring LB 1080-1106. Notice of hearings from Health and Human Services; Government, Military and Veterans Affairs; and from the Natural Resources Committee; all those signed by their respective Chairs. Senator Combs, an amendment to LB 454 to be printed. And new A bill. (Read LB 87A by title for the first time.) That's all that I have, Mr. President. (Legislative Journal pages 359-361.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Next agenda item, introduction of new bills.

CLERK: Mr. President, new bills. (Read LB 1158-1162 by title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal pages 361-362.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to next agenda item, General File, special order, LB 57. Mr. Clerk, please inform the body where in the process we are with LB 57.

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CLERK: Mr. President, LB 57 has been discussed by the Legislature on January 12, 13, and again yesterday. When the Legislature left the issue, Senator Chambers had pending a motion to reconsider the vote taken on his FA200. That motion is currently pending, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. We will now continue where we left off, as stated by the Clerk. Discussion of the reconsider motion of FA200. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, we're plodding our way right to a showdown on cloture, which I think we might can get to today. But what I want my colleagues to remember is that we're in half-day sessions. If I can take a bill each day and carry it over to the next day, I will eat up a lot of time. And when you all want to bring these school measures, tax cut measures, the budget, and anything else, I'm going to be in your way, not as a speed bump, but as a barrier. I have to mention one thing, though. If you look on your agenda, you'll see that a gaggle... "gaggle" is a term used to designate a group of geese. A gaggle of legislative resolutions eligible for adoption pursuant to Rule 4, Section 5(b) is back on the agenda. I had pledged to discuss every resolution, every bill, every motion, every proposal. Why then would these resolutions be on the agenda subject to passage without any debate? Well, you all have a Speaker who will communicate, who will negotiate, and he and I met yesterday, and he, quote, negotiated, unquote, not with, but on me, upon me. Your Speaker negotiated upon me, and I agreed to back away from requiring that every one of these types of resolutions be debated. So that particular aspect of the agenda will go forth as it always has, and you can thank your Speaker for it. But that's the only thing he was able to push me away from. I'll tell you one of the things that I was going to talk about when we did debate these resolutions. I was going to ask of everybody who introduced one to tell me the names of the players or the names of the individuals being congratulated, what their record was, and why you all are so willing to divide the world of youngsters into winners and

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losers. You never bring a resolution to acknowledge those who have not won, yet you will hear this quote over and over, by a fellow named Grantland Rice: When that One Great Scorer comes to mark against your name, he'll write, not that you won or lost, but how you played the game. The one who supposedly founded the Olympics made some comment or other, I read it in the paper the other day, that it is...the important thing in life is not winning, but the struggle. Yet the only ones ever lionized and acknowledged by people, from your President in the White House on down to every little pinhead Legislature such as this one in Nebraska, will acknowledge only those who win. Everybody loves a winner. What about those who strive valiantly and lose? As a matter of fact, if there's a team that loses every game but showed up every game and played the best they could, knowing they had no chance, they're the ones worthy of some honor, they're the ones who ought to be encouraged. Most of the people in this room are not going to win. Now, getting in the Legislature does not constitute winning by a long shot, as far as I'm concerned in the way I make judgments. These young people who have all of their hopes and dreams and aspirations probably...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...will not see them realized. So are they to be cast aside because they did not win? These beauty contests, as they call them, which are insulting, which objectify women, which sexualizes them, will allow only three to get some kind of recognition, but only one can win, and every other woman is a loser. So what is being done by this thoughtless, brain-dead practice of offering resolutions to congratulate the winners? It shows that people do not think, even when they're in the Legislature, or if they think, they are thinking in a way that is perverted and wrong. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Members, it is a little loud in here, so try to hold your conversations down and show respect for the speaker, please. (Visitors introduced.) Again, members, please hold your conversations down if you can. Senator Chambers, you're recognized.

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SENATOR CHAMBERS: Mr. President, they don't have to hold it down on my account. I'll just talk louder. The other day I pointed out why people mill around, and said it's not rude. Well, it is rude. It is disrespectful. But I'm accustomed to being disrespected in the Legislature, and let them do it. I've even told black people to watch and see how these white people carry on. And when they start telling these young people, you sit up in the classroom and listen, tell them to watch their Legislature. So you can do anything you want to. It makes me no difference. I'm accustomed to you. I've been among you for 35 years, and nothing has changed, and nothing will change. There is a commercial on the television, put there by OPS, talking about why there should be one school district in the city, and they mention that the schools are becoming increasingly segregated, and that's against the law. Who segregates the schools in Omaha? The Omaha Public Schools system. Who floated a \$250 million bond issue for the purpose of resegregating the schools? The Omaha Public School District. Who prevents there from being adequate textbooks, supplies, and qualified teachers in the schools that black children attend, those segregated, inferior schools in Omaha? The Omaha Public Schools system. Black people are not going to be treated fairly anywhere. There is racism in this country, throughout this country. And I try to explain to black people that wherever you go, whatever you do, these white people are never going to respect you, never. The racism is there, and that's why they do it. And you better be strong and you better be able to stand up to them. Look them in the eye, don't swallow spit, and don't you blink first. Don't back away from them. Show them what a black man and a black woman can do and will be about in a system which has discriminated against us, which has segregated us for the purpose of discrimination, ever since we were in the world, and before we came into this world. So you all need not believe that anything you do is going to impede me in any respect, in any manner. So I'm going to press right on with what it is that I'm doing, and you keep in your mind the fact that I understand what you're about, and I know what the racist inclination is, not just of the people here: the newspapers, the radio stations, the televisions. We see the way black people are portrayed and characterized. But you all, when you leave here,

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will know that you dealt with a black man who was not like Martin Luther King, who did not say, spit on me and I'll bless you, slap me on one cheek and I'll show you the other; that I believe that unmerited suffering is redemptive. That is not what I believe, but that's why you gave him a holiday. That's why he got a Nobel Peace Prize. He fulfilled the aim, the desire, the template that white people have for the acceptable black person. Be invisible and silent unless you're going to do and say what the white people want you to say, what they always have demanded of black people. Let them call you "boy" if you're a man; let them call you "gal" if you're a woman. But you're going to be able to say that you were in the presence of a black man who did not tolerate that. And I'm going to remind you when your white leaders mess up in their arrogant incompetency, as is happening to all these old white people who now have trouble getting their medicine because a white man you all put in as President messed the whole thing up. If a black person had done that, I can just hear the outcries. See how inferior they are?

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: See how they mess up? See how they can't do anything right? You shouldn't let them do it. But every time a white man does it, it's incorporated into your consciousness and you accept it and go along with it, because that's all you've ever known. That's all you have ever known, that's all you expect, and that's all you get. And you ought to get what you deserve. But I don't believe anybody deserves the terrible things that are happening to poor white people, poor old sick white people, or any other people who are not privileged, favored white males in America. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. And you may continue, and this will be your third time, as you know.

SENATOR CHAMBERS: Yes, I do, Mr. President. Senator Brashear is lucky that I'm a man who keeps his word, unlike my colleagues in this Legislature, who will look you in the eye and lie to you. You're lucky that I have my set of principles, not based on white Christianity, white so-called ethics. Suppose you had

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a black man who had gotten on the Board of Regents in the way that David Hergert did, running an operation that had an explosion and gives odors, contrary to the law, who might run cattle across the border at night to avoid having to pay some \$2 a head fee, who welshes on contracts and is found guilty of having done so in federal court by a white jury. If that had happened and a black man was on the Board of Regents, would there be all this vacillating and pussyfooting and saying, we have to stay out of it? Since we have these kind of resolutions here, I may start writing them, pointing out that you need to leave these kids alone in school when they cheat, because David Hergert has shown that crime pays, that liars win, that unethical people can put themselves in a position to rule on the ethics of others. But that's a white male. And there are people on this floor supporting and defending him, which shows me something about them. I'm going to use the rest of the morning in the way that I see fit, but I will touch on Senator Foley's bill so he won't feel lost in the shuffle. This motion to reconsider deals with a motion to get you to adopt an amendment which failed. That amendment would have said the following: "For purposes of this act, serious bodily injury means bodily injury which involves a substantial risk of serious permanent disfigurement, or a temporary or protracted loss or impairment of the function of any part or organ of the body." That is the amendment that was offered, and you rejected it. And what is before you now is a motion to reconsider that vote. I'm suggesting that we vote in the affirmative, reconsider that hasty, inappropriate action, and correct it this morning. How much time do I have, Mr. President?

SENATOR CUDABACK: About 2 minutes, Senator.

SENATOR CHAMBERS: Thank you. I want to say again, so that it's clear the first time, I'm speaking to a motion of mine. I don't see the Speaker here, but he ought to be here to get whatever accolades he may garner by negotiating to the point where I've agreed to allow these various resolutions congratulating people and teams to go forward without any debate. I could discuss one of these resolutions forever, because cloture does not apply to resolutions. The Speaker knows that. He knows what I could do if I would become absolutely obdurate and recalcitrant. But the

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Speaker is a man who sometimes speaks with reason and understanding, and I can deal with somebody like that. Why do I say "sometimes"? Because he offered a bill--fortunately for him, it won't come before the Judiciary Committee--which would further plunder the state's treasury to help bail out that...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...white elephant convention center they have in Omaha, which I opposed when they tried to bring it here. I had said that it's not going to pay its way. They put the two together, a convention center-arena, and they're going to need more money. And I can get the transcript to prove it. But again, white men prevail, white men got the other white men to vote for it, and now it's falling apart in the hands of white men, so a white-haired white man brings it down here to white people to say, steal more money from the white people and the black people who are paying taxes, and give it over to these incompetent white men in Omaha who have failed already, and send good green money after bad money, wasted by white men. And if some people don't like what I'm saying, stand up and show where anything I've said is inaccurate and incorrect. The only way you can show me that it's incorrect is to establish conclusively that some of these men I've described as white are really black men passing...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...for white. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion, the motion to reconsider FA200. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I just thought I'd make clear for the record what I intend to do. I assume that, I think, in about two hours, looks like there will be a cloture vote. In its present form, I don't support LB 57. I've tried to analyze what it is about LB 57 that I find most objectionable, because I would write the bill very differently if I was doing it myself from the git-go. I'm sure I would write it in a way that Senator Foley would object to. Yesterday

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we had the conclusion of a colloquy that began earlier, in which I'd asked a question about a set of hypotheticals in factual settings. Senator Foley was kind enough to respond. The one that I'd asked about that I've reflected upon since is whether or not an assault could be made on a fetus or an unborn child without an assault being committed on the woman. There was a hypothetical that Senator Foley gave, and upon reflection, it's clear to me that that, too, constitutes an assault. The theme or element that I find missing in LB 57 is the absolute separation of the interests of the mother from the fetus or the unborn child. This is a child that she wants to take to term, this is a pregnancy that she wants to carry, and the social loss, the personal loss is overwhelming when that pregnancy is interrupted and there's a death, or in this case, an assault that leads to serious bodily injury. I am unperauaded by the response, upon reflection, in the hypothetical that was given. And in fact, I think it constitutes an assault. Giving a woman a drug without her knowledge would be an unwanted touching. It would be an assault. It would be a crime. You can't get to this hypothetical situation without a crime being done on a woman, to the best of my ability. And in all the hypotheticals that I've heard on the floor, including the one given, those...I think that's factually true. What I find objectionable in LB 57 is the absolute separation. And in fact, I think it's a pre-staging of turning the one interest against the interest of the other, to turn the interest of the unborn child against the interest of the mother. That's, I think, the end game, as I think Senator Foley talked about later...last year when we were talking about the rights of gay people as employees. His concern was the end game, where we were going to get to. And what I think LB 57 is, is a staging to get to the place where we can turn the interests of the unborn child against the interests of the woman. What I intend to do is this. I'm going to vote against cloture. I think it will be successful. We'll go to Select File. I'll offer an amendment on Select File which as narrowly as possible takes the interest that I'm interested in, which is a recognition of the interests of the mother, to make it a part of LB 57. I will offer it in good faith, and I will pledge to support the bill should the amendment be successful. I would support a cloture on the bill once that amendment was successful. It will not attempt to rewrite the bill from stem

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to stern. It will not try to achieve completely different social ends. I will try to find the place, the cusp, between what I believe and what Senator Foley believes, to find if there is a place where there is common ground. What I find problematical in LB 57 is that there is no recognition of the interests, rights, or crime that has been done to a woman that would happen if you were to get to the setting in which this bill then would take place.

SENATOR CUDABACK: One minute.

SENATOR LANDIS: And what I don't want to have is a sublimation of her interests to these interests. I want to recognize that in fact they are aligned. They are parallel. A woman carrying a pregnancy to term would be devastated by this fact. She would be, and her husband, and her family would be brought to their knees by the kind of social harm that would exist were there an assault on an unborn child, fetus. And towards that end, I will use the Select File thing to offer amendment which is not...which will be as least intrusive as I can make it and yet recognize a principle that is not now recognized in LB 57, for what I think are essentially political and legal purposes to get to a day in which the woman's interest is sublimated, not recognized, not honored, but sublimated to the...

SENATOR CUDABACK: Time, Senator Landis.

SENATOR LANDIS: ...interests in LB 57. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. On with discussion, motion to reconsider. Senator Foley.

SENATOR FOLEY: Thank you, Mr. President. Just a quick thought to pass back to Senator Landis. And, Senator Landis, I appreciate your...the tone of your comments and the constructive nature of your remarks. You've been helpful in that regard throughout the past six hours on this bill. Let's all remember, we have assault statutes on our books today. They've been there for decades, probably 100 years or more. Those assault statutes protect each and every one of us, including pregnant women. There's absolutely nothing here that diminishes in any way the

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legal protections that the pregnant woman enjoys, nothing here that diminishes her interests. And if the thought is that we need to in some way strengthen our assault statutes for the born, fine, let's consider that question. I'm not opposed to that. But to suggest that this bill somehow sublimates the woman's interests, that doesn't compute. It doesn't do that. It simply expands the nature of our assault statutes to include the unborn. It takes nothing away from the pregnant woman, nothing whatsoever. And in fact, because of the location of the unborn child, it enhances her status, because not only does she now enjoy those protections, as she's always enjoyed, but her unborn child, located within her body, also enjoys that protection, if this bill passes. So her status as a pregnant woman is enhanced, not diminished in any way. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Foley. Further discussion, motion to reconsider? Senator Chambers, there are no lights on at this moment. You may close on your motion to reconsider, if you care to.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Landis is correct in saying that we will take a cloture vote on this. I hope he is incorrect in suggesting that it will be successful. But if it is, success can be reckoned only in terms of postponing the battle to another day in the session. And it makes me no difference. If the body chooses to give the time to something such as this, I will take it on this bill, rather than all those resolutions, and on other bills which, prior to this, I had no particular interest in one way or the other. But now they will become means to an end, and I will make use of all of those bills. Senator Foley knows that he does not have to accept any amendment to this bill, no matter how atrocious the bill may be, no matter how unenforceable, no matter how unreasonable, no matter that it attempts to elevate the fetus above the woman who is pregnant. I don't care how they clothe that idea, or the language they use in any legislative proposal. I know what their intention is, I know their ultimate purpose, and my intent and my purpose will be to do all I can to defeat theirs. In chess, you have an opening or beginning game, a middle game, and

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an end game. Sometimes pieces on the board are sacrificed for a greater good. The ultimate end, or aim, is to win the chess game, to reach the point where you can say, mate, the king is dead. The king is never taken off the board. You just create a set of circumstances where the king cannot move without placing himself in jeopardy, or is already jeopardized by a piece and nothing can intercede or intervene to save the king. Then you say, mate. But there is also stalemate, where nobody wins, nobody loses; it's a draw, a tie. And that can go on forever. I can move a piece, you can move a piece; I can move a piece, you can move a piece. It's like these pointless arguments that people get into where for a half an hour Mr. A says, yes, it is; Mr. B says, no, it isn't; yes, it is; no, it isn't, for a half-hour. Then, when the half-hour is over, Mr. A is continuing to say, yes, it is; Mr. B is continuing to say, no, it isn't. So a point will be reached when both of the chess players recognize that neither is going to make an error. Each is familiar enough with the nature of the game, the rules of the game, the strategies, the tactics to go ahead and throw in the towel and say that it's over. What some people are able to do is to look far enough ahead in a chess game to realize that there is no chance of winning, and the person will resign or retire, just give it up. And people watching, who do not have that insight, will say, why did you let it go at that point? Well, the one who lets it go...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...is not interested in continuing to chew cud that is not going to result in anything of value, so he will let it go. Why do I say "he"? Because the chess masters so far have been males. I don't think women have been encouraged to take up the game; I don't think young girls, young female adolescents, have been encouraged to take up the game, so as a result it has fallen to men. But there might be an approach that a female might have to the game which could completely befuddle and discomfit the men. And I'll spell that word, it's a biblical word, d-i-s-c-o-m-f-i-t. Not "discomfort," but "discomfit." But things being the way they are, conditioning having taken place, females probably will not rise to the heights...

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SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...thank you...in the chess world. I will ask for a call of the house, Mr. President, and a roll call vote.

SENATOR CUDABACK: There's been a motion to call the house. All in favor vote aye; those opposed, nay. Please record, Mr. Clerk.

CLERK: 20 ayes, 2 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The motion was successful. The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Unexcused senators please report to the Chamber and check in. Those members in the Chamber please check in. Senator Jensen, please. Senator Schrock, would you check in, please? Thank you. Senator Kruse. Senator Brashear and Senator Jensen. Senator Jensen, the house is under call. Senator Brashear, the house is under call. All members are present or accounted for. There's been a request for a roll call vote on the question. Mr. Clerk, when you get time, please call the roll.

CLERK: (Roll call vote taken, Legislative Journal pages 362-363.) 3 ayes, 20 nays, Mr. President, on the amendment...or, on the motion to reconsider, excuse me.

SENATOR CUDABACK: The motion was not successful, and I do raise the call. Mr. Clerk, items for the record, please.

CLERK: Mr. President, new bills. (Read LB 1163-1194 by title for the first time.) Mr. President, hearing notices from the Judiciary Committee. (Legislative Journal pages 363-368.)

Mr. President, the next item I have, Senator Chambers would move to amend LB 57 with FA202. (Legislative Journal page 1315, First Session, 2005.)

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SENATOR CUDABACK: Senator Chambers, you're recognized to open on your amendment, FA202, to LB 57. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, for the purpose of the record, I'm going to read this amendment, which just by chance starts with the two words "For purposes." This is the amendment. "For purposes of this act, body means the stage of development where an individual member of the species Homo sapiens in utero possesses arms, legs, hands, feet, a head and organs including heart, lungs, kidneys, liver, spleen and stomach." For Senator Foley's sake, this amendment does not attempt to name every organ in the human body. It says in the amendment "including," which is for the purpose of giving an idea of what would constitute an organ for the purpose of interpreting and construing that word should a case come before a court involving a situation covered by the bill. I'd like to ask Senator Foley a question.

SENATOR CUDABACK: Senator Foley, would you yield to a question?

SENATOR FOLEY: Yes.

SENATOR CHAMBERS: Senator Foley, I think you conceded the other day that in your opinion a prosecutor would not file an action under a bill such as yours if in fact the fetus, the embryo, were at a stage of development where there was no body in existence. Now, you may not have gone that far, so I'm letting you know the area that I thought you made a concession, and now I would like you to clarify so that I'm not putting words in your mouth.

SENATOR FOLEY: Well, thank you, Senator Chambers, for not trying to do that. And I mean that sincerely. You know, medical science is marching forward at a very rapid clip, and we're learning more and more...

SENATOR CHAMBERS: But on my time, I would like you to let me know what comment you made when you were saying under what circumstances you thought a prosecutor may not attempt to file a charge under this bill.

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SENATOR FOLEY: Well, I think the point that I was making to you and to other senators was that prosecutors enjoy winning more than losing, and when they believe they've got a case that they can take to a jury and prove beyond a reasonable doubt, they'll take the case forward, and when they think that there's elements lacking in their presentation of the case, then they will decline to proceed.

SENATOR CHAMBERS: If perchance a third party did something that resulted in the miscarriage of an embryo...and I'm not going to try to contrive a scenario how that happened, but the question that I'm asking I think will be clear to you. And let's say the embryo was recovered. What kind of...would a charge, in your opinion, be appropriate under this bill, of assault on a fetus or an embryo or unborn child?

SENATOR FOLEY: Senator, you may prefer to have me address this on my time, I don't know. But let me start into this. I think the disconnect between what you're suggesting and my position is that tucked away in your argument is the notion that the prosecutor must prove his case at the very instant that the act occurs, when in fact it may be after the child is born that all of the evidence is available to the prosecutor that would lead him to want to proceed with the criminal prosecution.

SENATOR CHAMBERS: I don't think I made my question clear, that the act of the third party would lead to a miscarriage, an embryo would be expelled as a result of that inappropriate act of a third party, and you have an embryo. Would it be appropriate for a prosecutor to allege serious bodily injury to this embryo, under this bill, in a situation such as that?

SENATOR FOLEY: If I understand your question, Senator Chambers, I think you're really asking a question that might have been more applicable to the fetal homicide statute of four years ago, because if I understand your hypothetical, you're talking about a case where a person killed the unborn child, did not damage the unborn child.

SENATOR CHAMBERS: So what you are conceding is that if an embryo should be expelled, it would not under any circumstances

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provide a basis for bringing a charge under this bill. Do you agree with that?

SENATOR FOLEY: I think you phrased it "if the embryo were expelled"?

SENATOR CHAMBERS: Yes. If it (inaudible)...

SENATOR FOLEY: If it...if the embryo were removed from the mother in some way,...

SENATOR CHAMBERS: It came out. Right.

SENATOR FOLEY: ...then it's going to be dead. It's going to be dead.

SENATOR CHAMBERS: So under this bill, there would be no basis for a charge. Is that correct? Do you agree?

SENATOR FOLEY: If I understand your question, Senator Chambers--I'm trying hard--I think you're talking about a case of fetal...a potential case of fetal homicide, not fetal assault.

SENATOR CHAMBERS: But that's not the question that I asked you. I'm trying to find out what you view your bill as covering. You are saying, I think, in a roundabout way, that this bill would not apply to the situation that I presented to you. Isn't that what you're saying, in a roundabout way?

SENATOR FOLEY: If you're asking me...

SENATOR CHAMBERS: Okay. Thank you, Senator Foley, because my time will run. Members of the Legislature, there are circumstances, and Senator Foley, whether he realizes it or not, has acknowledged, that this bill would not cover. Any time, whatever term you're going to apply to a fetus or an embryo, death results as a result of an illegal act of a third party--and I'm being very broad in my use of language to make the point--such an act, if it's to be prosecuted, would not be prosecuted under this bill, if it becomes law, because this bill

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deals only with a living child. There must be a birth, if I understand Senator Foley correctly. So let me explain first what Senator Foley's bill will not do. And he knows it, but he's unwilling to say it, because he's in such a defensive posture he thinks anything he acknowledges will make him vulnerable on this bill to attack. I pointed out yesterday, or the other day, at some point in our debate, that assault cannot include as a lesser offense homicide or attempted murder. Maybe I didn't say homicide. I think we were talking about attempted murder. I said that an assault statute does not include, as a lesser included offense in assault, attempted murder. A lesser offense cannot include a greater offense, but a greater offense can include a lesser offense. I emphasized that if death occurred or an attempted murder, that would not be brought under the assault bill, but rather under his homicide bill, because if an attempt was made to commit murder, there may not be any injury to the person who was to be the victim at all, no injury whatsoever. The victim may not even realize that he or she was the target. It is the act of the perpetrator, the circumstances under which it is perpetrated, and the intent of the perpetrator. And these things are established through circumstantial evidence. What Senator Foley thinks that I'm trying to do, I believe, is trap him into admitting that an embryo does not have a body, and therefore could not be subject to serious bodily injury, which is my position. But in the hypothetical I gave him, the embryo was expelled from the woman's body, the embryo is not living. His bill does not cover that.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Let me ask him a question, now that I've said all that, which is more direct. Senator Foley, would you respond to a question?

SENATOR CUDABACK: Senator Foley, Senator Chambers would like to ask you a question.

SENATOR CHAMBERS: Senator Foley, if death results to a fetus or an embryo, that act would not be prosecuted under your fetal assault bill, would it?

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SENATOR FOLEY: Correct.

SENATOR CHAMBERS: Okay. That's...thank you. And when I get a chance, I may ask you a few more things, with a different scenario, since we've gotten that one out of the way during my first ten minutes. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on the Chambers amendment to LB 57. (Visitors introduced.) On with discussion. Senator Foley.

SENATOR FOLEY: Thank you, Mr. President. Mr. President, I'm looking at the board. I don't see that we're working on any particular amendment. Can you help me out there?

SENATOR CUDABACK: Senator...we're working on it, Senator.

SENATOR FOLEY: There we go. There we go. I see. We're working on...

SENATOR CUDABACK: We're working on it. Thank you for reminding.

SENATOR FOLEY: ...amendment FA202. Senator Chambers has offered us a peculiar amendment. It's not the first time, won't be the last. (Laugh) And he's trying to establish a new threshold under which an unborn person, unborn child, could enjoy legal protection. And that new threshold is, you have to have two arms, two legs, two feet, two hands. So if a child is deformed and only has one hand, Senator Chambers says, well, we're not going to protect you; you only have one hand; sorry, get out of my life. But if you have two hands, well, okay; now you've got two hands, so we're going to protect you. One hand, no, not good enough. No, got to...I want to see two of them. I don't think this is a serious amendment. I think we're passing time today, as we did the day before, and the day before that, and the day before that. Senator Chambers excels at that, and he's going to keep offering frivolous amendments until the eight hours passes. This amendment deserves to be defeated. Thank you, Mr. President.

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SENATOR CUDABACK: Thank you, Senator Foley. On with discussion. Senator Chambers, on your amendment.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Foley is adopting the approach of his leader in the White House. President Bush and Vice President Cheney, no matter what the evidence presented to them as far as an allegation, will say, that's simply untrue, and it's supposed to be dismissed. Well, I will let the record speak for itself. I will let my amendment speak for itself in terms of what it says. But, Senator Foley, I would like to ask you a question.

SENATOR CUDABACK: Senator Foley.

SENATOR CHAMBERS: Suppose, instead of using the plural form of these words, I said, hand...arm or arms, leg or legs, hand or hands, foot or feet. Would that satisfy you?

SENATOR FOLEY: No.

SENATOR CHAMBERS: Thank you. You see, Senator Foley is being frivolous. He knows what this amendment is designed to do. He has put into his bill the term "serious bodily injury," without a definition of "body." I have stated over and over, and any doctor or scientist or even person on the street that he would talk to would let him know that if there is no body present, there cannot be serious bodily injury. You cannot injure that which is not in existence. What I'm offering here is a definition for the term "body," so we know at what stage of development a criminal statute such as that he is proposing would be applicable. This has nothing to do with the value of a zygote, an embryo, or a fetus. It has everything to do with the criminal law and what kind of law is enforceable, what kind of law is rational, what kind of law makes sense. Now, a person such as myself, trained in the law, trained in Catholic philosophy, encounters tremendous difficulty on a floor where you're dealing with people not trained in either discipline. Oh, there are people on the floor with law degrees, but that doesn't mean that they're trained in the law. They were trained in law school, but they don't understand the law, they don't

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understand the majesty of the law, they don't understand the dignity of the law, and they don't understand the purpose of the criminal law. You had a zealot for the U.S. Attorney General, who should have been called the Inquisitor General, who wanted to use his position to punish doctors in Oregon who, in compliance with a state constitutional amendment, would allow doctors to prescribe enough medication to comprise a lethal dose to people with a very short time to live, who had a terminal illness, who had been certified by at least two doctors that they were sane, that they were not mentally impaired, that they made this choice. And former Attorney General Ashcroft, bringing his religious zealotry and extremism, said, no, Bush doesn't like it, my church don't like it, I don't like it, my dog don't like it, God don't like it, Jesus don't like it, the Holy Ghost don't like it. And what I'd have told him, the three men you admire the most, the Father, Son, and the Holy Ghost, all took the last train for the West Coast, because that's where they have more sense than a fool like you, sitting as Attorney General. Do you know, on that statue of Justice, which everybody has seen, he put brassieres and drapes...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...over that statue, because his modesty was offended. Then when he got out of his position as Attorney General, he did what no Attorney General before him had done. He became a lobbyist, a lobbyist. And he's lobbying on behalf of those entities trying to sell to the United States government equipment growing out of programs that Ashcroft put in place as Attorney General, dealing with what they call homeland security. That's what these zealots do. They want to impose their narrow views on everybody. But they are venal, they are grasping, they are greedy, and they are desperate, with no sense of values. This amendment that I'm offering may be called by Senator Foley frivolous, if he knows what the word means. But this bill, in the form that is before you, is preposterous and...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...ridiculous.

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SENATOR CUDABACK: You may continue.

SENATOR CHAMBERS: My amendment attempts to bring some sanity and rationality into it, so you all won't look like fools, like you don't understand what a criminal law is for. The U.S. Supreme Court told the Bush administration that this man you call the Attorney General took a position beyond his legal or medical or scientific expertise. He tried to misuse his position of power to punish doctors for doing what he disapproved of. And the law enacted by Congress dealing with controlled substances was designed to fight against trafficking in narcotics, as anybody would know, except the zealots. And they even know better, but they will use anything to get their particular religious error into the laws to make orthodox that which ought to be dismissed out of hand as sheer "nincompoopery," because that's what you're dealing with. But you are too cowardly or too ignorant to know what it is that's before you and to do the right thing about it. A Legislature is supposed to be a deliberative body. What do you think the word "deliberative" means? Go get that little simpleminded red dictionary over on this table, or go back there and get that English dictionary, and see what these terms mean. But the reason I was going to say it's so difficult for somebody like me, if I'm dealing with people who understand these concepts, who understand these principles, the arguments would be entirely different. That's why in courtrooms lawyers are in a position where they can argue from the standpoint of intelligence, rationality, the law, its history, its dignity, and its purpose. When you get on a legislative floor, you could go in the telephone book, you could take the list of people in the penitentiary, and take every other person till you get to 48, and put them in here, and they'd do just as well as is being done here now, and better. Why did I say 48? Because I'm excluded from that. My record and my history demonstrate what I try to do on this floor, and what I try to persuade this Legislature to do. Then you have a man who comes in here, who will admit he's not a scientist, has not gone to medical school, which we know, and--he will not admit this, but I will say it--cannot even read a sentence from a book on embryology and correctly understand it. He puts his Catholic spin on it. So I would...I'd be allowed to stay here, because I think, I reason,

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I understand. And if I got some of those people out of the penitentiary, some of them are there because they were stupid in what they did, not because they are unintelligent in the sense of not having the brainpower to reason, to arrive at an appropriate conclusion. But that is sadly lacking on this floor. Look at this trash legislation. If I were not here, how many pieces of trash would have passed across here and become the law in this state? I am the winnow. I'm the one who has to clean up white folks' mess. A black person would not bring anything as crazy as this, because black people understand English. Do you know why? It's not our indigenous language. Those of us born in America can have it said that English is our indigenous language, because it's the only one we were taught, it's the only one most of us speak. But we study it, we pay attention, because we're required, in a racist, white society, to understand white peoples' language better than they do,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and use it better than they do. So I know what these words mean. But I know, at the same time, that hypocrisy prevails in this society, and there are fine words uttered all of the time, but they are disregarded. While Thomas Jefferson is writing "all men are created equal," he was holding slaves, and probably had a slave holding some kind of lantern so he could see to write those words about all men being created equal, while he's got slaves. White men have proved hypocritical, even while they're writing these fine words. But we have before us now the opportunity to keep idiocy out of the statutes. And you can put it there if you want to, but I am not going to go along, and I'm going to make it as difficult for you as possible, and I want the...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...transcripts to show what I said, as opposed to what the rest of you said and the rest of you did. Thank you, Mr. President.

SENATOR CUDABACK: Further discussion on FA202? Senator Chambers, you have spoken three times, but I will recognize you

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to close on FA202.

SENATOR CHAMBERS: Thank you, Mr. President. And you know, speaking colloquially, I ain't through. I know my time is passing. Be patient. Enjoy this moment of silence in any way that you choose. And I'm going to repeat something here. Your Speaker bludgeoned me away from going after the resolutions, but he's not going to bludgeon me away from going after bills. And some of you...some of you I've worked with on bills, some of you I've even talked to lobbyists on your bills, and I made it clear that with the path the Legislature is following, circumstances alter cases, and I will not sneak up on somebody, and I'd let them know that all bets are off. This is a new legislative session, and I'm going to deal with you all the way you deal with me. And you can throw votes away for cloture right now, and you're not going to have Senator Foley standing up supporting and defending your bills. He's going to sucker you into giving him what he wants. Senator Combs was able to do it, and she hasn't been here during all of this. I think Senator Burling might have even gotten you to do it. I don't remember for sure. And on every one of those bills, you all know, not one of them is worthy of being enacted into law. You know it. But you're going to try to do it anyway. There's another zealot. And I think I'll wait until we get to my next motion, so I'll have enough time to cover that subject. And in the same way that I don't care what you think and how you feel now, we're going to be like that the rest of the session. I don't have to live with you. In April, this is all over, and you all go your way and I go mine. It's best that we do. And that's how people avoid committing homicides. But while we're here, I'm going to do it my way. You're doing it your way. But the fact that you have all these tagalongs with you when you've got one of these crazy bills, you take that to mean that you're right. No, it doesn't mean that you're right. It means that cowards and nonthinkers clump together and are easily led and are easily misled. It is so hard for me not to feel superior, whether you like me to say that or not. Do you know what? I wouldn't go in one of your schools where you have little white children who are there to be taught, and tell them that they are inferior. But that's what has been taught to our children, and they're treated like that. I don't do this to your children. I do it to you

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all, because you're grown and you can stand up for yourself, and you ought to, and you can fight back, and you ought to. But you clump together and you skulk and you hide. So since I know that the odds are always massively against me, I simply have to fight harder. But it makes me stronger, unlike you all.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Think about how much groveling you do. Make a deal here. I'm going to make a deal. None of you all have the power of the Speaker. Anybody who will come to me and grovel can get mercy for your bill. Come to me, and after you leave, you say, I came, I groveled, I prevailed. That's a promise. Anybody who will come to me and grovel, I will beetow mercy. I think that's fair. You grovel for the lobbyists, and all they give you is a meat loaf sandwich and a chicken dinner. I am a merciful, compassionate conservative. That's my offer. But in the meantime, I'm going to continue with my process...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...on this bill and others. I will ask for a call of the house, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the closing on FA202. Been a request for a call of the house. All in favor vote aye; those opposed vote nay. Record please, Mr. Clerk.

CLERK: 17 ayes, 2 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The motion was successful. The house is under call. All unauthorized personnel please leave the floor. Unexcused senators please report to the Chamber and check in. All present members on the floor please record your presence. The house is under call. Members on the floor, please record your presence. Unexcused senators, please report to the Chamber. Senator Bourne, Senator...Senator Stuthman, would...all members are present or accounted for. The question before the body is adoption of FA202, offered by Senator

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Chambers to LB 57. There's been a request for a roll call vote on the question. Mr. Clerk, please call the roll when you get time.

CLERK: (Roll call vote taken, Legislative Journal page 369.) 1 aye, 24 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The motion was not successful. I do raise the call. Mr. Clerk, next motion.

CLERK: Senator Chambers would move to reconsider the vote just taken, Mr. President.

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your motion to reconsider the vote taken on FA202.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, and Senator Kruse, who was the only yes vote, the reason I don't vote yes the first time around is because I must be in a position to reconsider. And on the reconsideration motion, I will vote yes. I was talking about a zealot who was Attorney General of the United States. There was a zealot at the local level named Don Stenberg. There was an interesting article in yesterday's paper, the World-Herald, on page 2B. Headline: Stenberg threatens to sit out debates. It's like, if you don't do it my way, I'm going to stay home; I'm not going to play in the sandbox with you. But I'll let you see what you think. He is one who would take a position such as that of Senator Foley. He pandered. He tried to find which way the wind was blowing, and that's the way he went, with a vengeance. He even admits in here that he was wrong and made a mistake to attack Senator Chuck Hagel, because now he doesn't want to be attacked. So he's saying, well, yeah, I did that when I was running for Senate, but I don't want you two chuckleheads to do it, meaning "Rickety-Rack", or...he got a name something like that. But he's...his father is a millionaire, so he doesn't care what somebody on the floor of the Legislature says. Some of us talk to creatures other than human beings, and I'm told by a fly that was on the wall that Mr. Ricketts went to his daddy, who founded Ameritrade, and it's a multimillion-dollar operation, and he said, daddy, I want to do something. And his

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father said, well, son, what is it you would like to do? I can't figure just yet, but there's something that I want to do. And I want it to be something that costs lots of money, daddy. So his father said, check it out and come back to me. So then one day he came back with a stocking cap pulled down over his head, and a goofy grin on his face, said, daddy, daddy, daddy. His daddy said, what is it, son? I want to run for the Senate. And he said, all right, how much is it going to cost? He said, kind of timidly at first, \$1 million? His father put on a half-squint, a half-smile. He said, \$1 million? Will it keep you out of my way? Will it keep you from trying to fiddle around with the business? Yes, daddy. He said, son, I'll give you \$2 million and whatever else you need. He said, oh, goody, goody, goody. Thank you, daddy. So he's running for the U.S. Senate, spending all this money. But his father feels, this is going to save me something. Then there's a fellow named Kramer, who spells his name with a "K," K-r-a-m-e-r. And he held a position in the "Republican" Party in Nebraska. He is also a lawyer. And he wants to run for the U.S. Senate also. Now, he doesn't have as much money as "Mr. Rickety-Rack," and he doesn't wear a stocking cap. But he's serious. So you have two in the race, then the wild card, the wild man, Don Stenberg, who said, I am going to run. I've lost twice. Anywhere in this society where you make three strikes, you're out. I'm not going to strike out this time. But I've got to get to the plate first, and the only way I can do that is to control these two nincompoops that I'm running against. So he set out some ground rules. And with that background, I'll go into the article. And he would support Senator Foley. A call for, quote, positive campaign...a positive campaign pledge, unquote, in the Republican race for U.S. Senate took a negative turn Monday that could result in Don Stenberg's sitting out debates. Oh what a loss to the society and history that would be. I threw that comment in. Back to the article. Stenberg refuses to debate unless his two opponents, Pete Ricketts and David Kramer, sign a written pledge in which they agree not to mention their opponents in paid advertisements. Not to mention their opponents? Why, what kind of craziness is that? Craziness of the fox. If he's dealing with people idiotic enough to sign it, why shouldn't he tell them, idiots, sign this. Not to mention your opponent? Why wouldn't an opponent want to be mentioned?

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If he has a good record, he's going to publicize his record; he'd want everybody to know what that record is. If somebody ran against me, I would insist that that person talk about me and publicize my record. Continuing with the article. Ricketts and Kramer object, saying a candidate's record and experience are legitimate campaign issues. That sounds like a pretty solid position. But let me continue. The two, each making his bid for public office, gave Stenberg until Friday to say whether he would participate in debates. Here's what they say: You made your ultimatum; by God, we're giving you an ultimatum. Let me continue. Stenberg, a former Nebraska Attorney General, who is making his third bid for the Senate, repeated Monday that he would not debate unless...he should have, instead of saying "unless," he should have said "if and only if." That's more emphatic. Let me get back to the article. He would not debate unless his opponents signed his pledge. He also said he thought Ricketts and Kramer need the debates more than he does. Quote, Nebraska voters already know who I am, where I stand, and what kind of debater I am, unquote. Stenberg said, with another quote, my inexperienced, unknown opponents need debates; I don't, unquote. That seems to fly in the face of an earlier pledge he got these two knuckleheads to sign. Continuing: The three--Larry, Curly, and Moe--are seeking the Republican nomination in the May 9 primary. The victor will try to unseat Democratic Senator Ben Nelson in November. Departing from the article, yes, it says "victor," not "victim." Continuing: Ricketts is a former executive with Ameritrade whose father founded the company. Now there's no comma after Ameritrade, so you set off, Ricketts is a former executive with Ameritrade, comma, whose father. Then you know it's referring back to Ricketts. But from the way this is constructed, Ameritrade's father founded the company. That's what it says: Ricketts is a former executive with Ameritrade whose father founded the company. I didn't know Ameritrade had a father, but what do I know? This is "Repelican" business. Continuing: Kramer is a former chairman of the Nebraska Republican Party, and an Omaha attorney. The two men agreed to the first two parts of Stenberg's campaign pledge, not to make personal attacks and not to distort an opponent's record. So I guess he was not making an attack when he called them inexperienced and unknown in the context of pointing out why they need debates and he doesn't.

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He doesn't want them saying that about him. But let me continue. "Repelicans" are "Repelicans" and they understand each other. But, continuing with the article, they left open the possibility that they would discuss Stenberg's record and experience in their...

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...paid advertising. Stenberg has acknowledged that he ran advertisements in the 1996 primary attacking Republican Chuck Hagel for being away from the state for 20 years and for being a lobbyist. Stenberg, who lost that race to Hagel, said his 1996 advertisements were, quote, a mistake, unquote. Quote, fortunately, it was a mistake that I could correct, unquote, said Stenberg, noting that he went on to rally support for Hagel in the general election. Every "Repelican," hidebound and regimented as they are, pledges that they will support, he or she will support, whoever wins the primary, which means, if it turns out to be Jesse James, but he's a "Repelican," they'll support him. That's the kind of thing they're dealing with. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. The floor is now open for discussion on reconsideration of the vote taken on FA202. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. And I see we have a different person in the Chair, so I will...wait a minute. I'm getting a fast shuffle. Okay. We're...just when I say we have a different...now we have a different person. At first, another one was going to go; now we have the one I'm familiar with. Thank you, Mr. Lieutenant Governor, but you may be excused. I was just being confused. Thank you very much. Members of the Legislature, I had promised to go into this article, and I don't like to make a promise and not keep it. Abraham Lincoln made a very famous statement, "the promise being made, must be kept." People don't know the context in which that statement was made. He was talking about why black men would be brought into the Union army to fight against the South. He said the South was

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winning. The only way the Union would have a chance is to let black men fight. And over 200,000 fought--186,000 in the army, 14,000 in the navy. Twenty got Congressional Medals of Honor. You all don't know that about black men. And they say white people fought for our freedom while we sat under some tree someplace watching. Lincoln said, after black men had been fighting, if we give up every bit of territory that these black men have won for us, give up every bit of territory that they now hold for us, we can forget the struggle, because it will be lost in three weeks. Black men provided the balance of power in the Civil War, and that's what Lincoln said. But they don't teach you that in your white schools, because they want you to see us as inferior. What Lincoln said when he was talking to these white men, and others who didn't like his position, he talked about the great work black soldiers had done, and he said, but black men, like all other men, do what they do from motive, even the promise of freedom. And the promise having been made, must be kept. So although this that we're dealing with is not nearly as auspicious as what Lincoln was dealing with, his statement is apropos of this situation. I promised to deal with that article, and I did. I have said that this is a Catholic-inspired notion, that a full-fledged human being exists when it's smaller than can be seen with the naked eye or even a magnifying glass. And I've talked about the Catholic Church as a criminal organization. And I called it that because of the criminal conduct of the hierarchy and the ones who establish the policies of the church. But they're not criminal only when it comes to raping children. They certainly are criminal when it comes to that. And they accept drug money, money from mobsters. So before you all talk about these venal congressmen accepting money from Abramoff, talk about the Catholic Church taking money from La Cosa Nostra and the Mafia and other criminal...known criminal elements. Even Sam Giancana, who was having a sexual liaison with Marilyn Monroe the same time President John F. Kennedy was, gave money to the church, and it was accepted. The World-Herald printed a small item January 14. The church is running into so much trouble because there have been so many rapes of little children, and these victims are winning court judgments, that these archbishops are saying, not only the little parishes,...

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SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...not only a little diocese, but archdioceses all over the country are facing going broke because of the money that has to be spent to compensate these victims. When has any company, all over the country, run into that kind of a situation, documented in court? And you don't want me to call it a criminal organization? Why, whenever you want to talk about the abuse of children, the Catholic Church ought to be brought up, and a poster should be unfurled with the Catholic Church as the greatest raper of children. And when the hierarchy agrees...I was told that when a fly is seen inside in the winter, it's a sign of good luck, and right here on my desk is one of the largest horseflies that I've seen in my life, just sitting here listening. When I called attention to him, he flew.

SENATOR CUDABACK: Time, Senator. You may continue, and this will be your third time, as you know.

SENATOR CHAMBERS: Thank you. I want to show you what happens when a Catholic archbishop tried, through their crooked lawyers, to spare archdiocesan property by saying, when victims are victimized by a priest, the only property available for liquidation to pay off judgments are...would be the property in that particular diocese. But the church couldn't get away with that. Applying the law appropriately, the court knows that the archdiocese runs everything in the archdiocese. The diocese is not an independent, free-wheeling operation. So the bankruptcy court ruled, and that was written up January 1 of this year in the World-Herald, and I'm getting more information so that there will be a more complete rendering--it took place in Portland, Oregon--that a bankruptcy judge has ruled that the Roman Catholic Archdiocese of Portland, not its parishes, owns church assets, dealing a major blow to its efforts to protect church property from lawsuits filed by alleged victims of priest sex abuse. Church going broke, and that will be good. Let me fast forward to January 14: Headline, Bishop Defies Bankruptcy Court. And the Catholics are always talking about, you obey the

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civil authorities. They quote where Jesus told somebody, give to Caesar what's Caesar's. Roman Catholic Archbishop John Vlazny, V-l-a-z-n-y, says the church will follow its own internal law on property ownership, defying a federal bankruptcy judge ruling on how to satisfy claims by victims of alleged sex abuse. Aren't they supposed to follow the law? We've got an archbishop defying the court? Then they want to make children wear uniforms to school, and if they don't wear uniforms that's a terrible thing? The archbishop is defying the court, not using the court system which is available, but is using the arrogance of Catholic power, that he thinks remains intact, to defy the court. And what brought them to this turn? Not because the court says, you cannot teach that the church can turn wine into blood and crackers into flesh, and you all eat it. You can do that, if you want to. The church...the court didn't say, you can't worship who you want to, you can't have plaster statutes of saints scattered around wherever you want to. It didn't say you cannot teach that statutes cry and bleed. No, all this court is saying is that the church is bound by the laws of the United States. The church gets all kinds of breaks, not just the Catholic Church, all of them. We subsidize these churches. We pay taxes for the streets that go past their churches. We pay for the fire protection that they have. We pay for the power lines, the power poles that they take advantage of, and they don't pay taxes. So they're subsidized by everybody when they don't have to pay taxes, and not only that. They don't want to abide by the law. So when the hierarchy is wrong, the organization is wrong. Are there individual Catholics, some of whom being more offended than I am by what the church is doing? Beyond a doubt.

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: Not only in this country, but all around the world, they are fed up with what the church is doing. They see the conduct of the church as being criminal. They know that it is. When a person wants to put into the law a point of Catholic doctrine, my job is to stop it. I may not be able to stop it right at this stage of debate, and maybe I can. But we're going

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to allow the process to work, and when I say that I'm quoting people who always say things like that. But I will continue my fight and ultimately, if there is justice in the universe, I and justice shall prevail.

PRESIDENT SHEEHY: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr...oh, we have a different person now, but the same one who before was there. Thank you, Mr. President.

PRESIDENT SHEEHY: Further discussion on reconsidering the vote taken on FA202? No further requests. Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, when we get to Select File, if this gets there, second verse same as the first. And I will be there, I assure you. But before we get to this bill again, there will be carnage along the way. I sat in the Ag Committee yesterday and heard a bill, which although it didn't go as far as it needed to go in the area being addressed, it was what I deemed to be a step in the right direction. I have confidence that that bill will come before the Legislature. I don't know if it will come up for debate. But if it does, I'm going to take plenty of time on that bill, too, and it's one that I basically support. So as these bills come out, they provide much grist for my mill. I am dedicating this session to stopping bad legislation. And unlike the religious people...I think this was a statement by a white guy, I know he's probably religious, by fair means or foul. I'm going to use fair means, meaning complying with the rules that you all adopted over my negative vote and Senator Foley's negative vote. I told him if anybody looks at our proceedings and see in the Journal where he voted with me against the rules, that will lose him at least 10,000 votes in his run for the Auditor of Public Accounts position. But we shall see what we shall see. I'm going to play by these rules. I'm going to play by an ad hoc rule that Senator Brashear, your distinguished, estimable Speaker, wrested from me. I'm going to abide by it. Abraham Lincoln said, if you make a bad bargain, hug it all the tighter. Now of all the things he said, that has made least

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sense to me. But he made a statement that I think makes a whole lot of sense: Never interpose your skull between the skillet in the hands of an angry housewife and her husband, toward whom she has anger. That makes a lot of sense. That's what Bush should have done down there before Laura...what's the name of that town that Bush comes from? I'm trying to think of it. What's the name of Bush's hometown? Crawford. Crawford. Before Bush...before Laura gave him a Crawford caress with that skillet and he had to go before the public and his makeup people couldn't cover it up, so he said he was sitting on the couch--he has eaten pretzels all his life--he choked on a pretzel, fell off the couch, slid across the floor until he came in contact with a wall and wound up with those bruises on his head. Anybody who has studied the caress of the skillet knows what that Crawford caress was, and I applaud Laura for that. But you see, it didn't do any good. This amendment before you...

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...is designed to provide a definition of the word "body." I know it will not be adopted, but I shall continue to press on. In years to come, when the transcript of these proceedings are read by anybody, they will wonder what in the world was wrong with that Legislature. What were those legislators thinking? I want to provide the answer for them. They were thinking about nothing. They were not thinking, and that's why Hitler said that rulers are fortunate, they are fortunate because the people do not think, and especially, I would add, when they're members of the Nebraska Legislature. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the closing on the motion to reconsider. The question before the body is, shall the vote taken on FA202 be reconsidered? All in favor vote aye; all those opposed vote nay. Have you all voted who care to? Voting on the motion to reconsider. Record vote has been requested. Mr. Clerk, please record.

CLERK: (Record vote read, Legislature Journal page 370).

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1 aye, 16 nays, Mr. President, on the motion to reconsider.

SENATOR CUDABACK: The motion was not successful. Mr. Clerk, items for the record or new bills, please.

CLERK: Mr. President, new bills. (Read LB 1195-1235 by title for the first time.) Mr. President, that's all that I have at this time. (Legislative Journal pages 370-377.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, next motion on the next, please.

CLERK: Next amendment, Mr. President, to LB 57, Senator Chambers, FA203. (Legislative Journal page 1315, First Session, 2005.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your amendment, FA203, to LB 57.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, this amendment says, the provisions of this act shall not apply until after an individual member of the species Homo sapiens, in utero, is of sufficient size to be visible without the aid of a microscope. I want these statements in the record, so that people will be aware of what had been presented, the attempts to bring sense to the Legislature. Since this final amendment probably will not be considered today, I'm going to read what the next amendment would say. Quote: No textbook shall be used in any public school which uses any other term than "unborn child" to describe every stage of development in utero of a member of the species Homo sapiens, from the point of...the point or instant of conception until birth, whether vaginally or by Cesarean section. This is another amendment to show how preposterous is this bill. But since I've been so critical of the church and its hierarchy and had made a comment that last time that there are ordinary Catholics who are as upset, and some even more so than I am, it would be appropriate if there's something that a member of the hierarchy, a bishop, had done or said which I find to be commendable. And there was such an event, and it was written about by the Associated Press on January 3 of this year. The headline: Vatican Dismisses

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Alaska Priest. As protective as the Vatican has been of these misbehaving priests, and so show how protective they are, Bernard Cardinal Law from Boston, the worst of all of them, was brought to Rome and placed over the second most important basilica in Rome, and he delivered one of the nine prayers for the deceased Pope John Paul II. That's to show how accepting the Catholic hierarchy in the Vatican is of the abuse of children. So when the Vatican agrees to dismiss a priest, you know he's got to be bad. But it was not an American bishop--Anchorage, Alaska. A priest now living in Omaha who was accused of sexually abusing boys in Alaska more than two decades ago has been dismissed from the priesthood, the Catholic diocese of Juneau said Sunday. Michael Patrick Nash, who now attends Creighton University, was a priest in Juneau when allegations of abuse surfaced. He dismissed...his dismissal stems from an investigation that began in late 2002, when a former Juneau resident claimed that he had been abused by Nash in the early 1980s. Quote from Bishop Michael Warfel, W-a-r-f-e-l: I am relieved. We are coming to a sense of resolution and some conclusion to what all around has been a tragic affair, Bishop Michael Warfel said Sunday. The diocese decided that Joel Post, who now lives in Duluth, Minnesota, had, quote, suffered grave harm at the hands of Mr. Nash, unquote, and agreed to pay him \$175,740 to settle his claims. Now this Bishop Warfel is a man that I think I could talk to. Back to the article: After the allegations became public, a number of other men came forward and made similar claims, according to the diocese. Nash, the defrocked priest, denied any wrongdoing and continues to do so. But he agreed in May to the process that resulted in his dismissal from the priesthood. He's going to agree to be dismissed, when he claims not to have done anything wrong, from a vocation he gave his life to? Bosh! Pshaw! Humbug! Oh, and bah, in case I didn't put that in there. This man knows he's as guilty as sin. But continuing: Post, the victim, said Nash, the defrocked priest, abused him numerous times between 1979 and 1982. He filed a formal complaint with the diocese November 22, 2002, in which he said he was abused from age 11 to 15, when Nash was involved in youth ministries, a youngster placed in a position and a set of circumstances where the parents thought the man in charge could be trusted. That trust was betrayed, and the young man was violated. Continuing:

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Nash, who is in his mid-fifties, came to Alaska to enter the seminary in 1978. He was a deacon with St. Paul Catholic Church until his ordination as a priest in 1980. He ministered in Juneau, Ketchikan, K-e-t-c-h-i-k-a-n, and Petersburg. When the church received Post's formal complaint, Nash was ministering at the Cathedral of the Nativity in Juneau. He denied the accusation in a written statement and voluntarily stepped aside while the allegations were being investigated. Witnesses at a review board hearing in February said Nash told boys to remove all their clothes except their underwear and allow Nash to tickle them. He also required the boys to massage his neck, shoulders, and feet. He required one boy to drop both his trousers and underwear so he could spank him on his bare buttocks. Nash admitted that the witness accounts were substantially correct. He denied some of the more serious allegations, Bishop Warfel said. Attempts to reach Nash for comment were unsuccessful, because he has an unpublished phone number in Omaha. A message left at the home of his lawyer was not immediately answered. A Juneau lay committee looking into the allegations sent its findings to the Vatican Congregation for the Doctrine of Faith in Rome. Bishop Warfel notified the Vatican that there was sufficient evidence that Nash had sexually abused minors. Warfel said he was notified December 23 that the Vatican had dismissed Nash on November 18. Quote: As such, Mr. Nash is no longer a priest of the diocese of Juneau and is forbidden to present himself as a priest, or to engage in priestly ministry. He is also relieved of the obligations associated with ordained priesthood, including that of celibacy, Warfel said in a letter to the Juneau diocese. As part of the dismissal agreement, Nash will receive retirement benefits when he reaches age 65. The diocese also has agreed to help the victim Post fight what it describes as an "unjust lawsuit." The diocese is helping the victim fight this unjust lawsuit brought by the defrocked priest, Nash, alleging that Post defamed him when making the allegations of sexual abuse. Bishop Warfel said he was disturbed by the ex-priest's insistence that his behavior did not constitute sexual abuse of minors. Quote: The actions which Mr. Nash admitted were, by their nature, sexually abusive, violating the intimacy, privacy, freedom that are so important to sexual well-being, most especially for children and adolescents, Bishop Warfel said. Now, that shows that not every

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person holding a high position in the church is going to do as American bishops and American archbishops have done, which is to take the malefactor and quietly transfer him from parish to parish, providing more victims and never notifying the people, whose children were placed at risk, that a ravening wolf, a sexual predator, a criminal, was being placed among them. But because this man was not charged with a crime, not convicted of a crime, he need not register as a sexual predator. But if...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...the diocese in Juneau conducted an investigation, witnesses testified, and the defrocked priest agreed that most of what the witnesses said was accurate, and the evidence was so overwhelming that the tolerant, accepting Vatican kicked this man out, you know he had to be a bad, bad actor. But despite the fact that a priest did bad things, nothing in the way of a negative allegation can be made against Bishop Michael Warfel, who took appropriate action to see that a bad situation was corrected and, going beyond that, to defend and protect the victim from a malicious lawsuit which would victimize the man twice. Thank you, Mr. President.

SENATOR CUDABACK: Time, Senator. You've heard the opening on FA203, offered by Senator Chambers to LB 57. Open for discussion on that motion. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Borrowing phraseology from a conservative "Repelican," now for the rest of the story. In an article in the World-Herald dated January 13, on page 4B--I read all the newspaper; that's why I see these little bitty things--written by Bill Hord, H-o-r-d, of the World-Herald, headline: Ex-Priest Issues Denial of Abuse. Remember, they couldn't find him when this was going on. Reading from the article: A former Catholic priest, now a law student at Creighton University, Thursday denied allegations of sexual misconduct. Michael Patrick Naah issued a statement Thursday saying he has, quote, never molested any child or adult at any time or at any place. Any statement, innuendo, or suggestion to the contrary is not true, unquote. So that means Bishop Michael Warfel was lying, the Vatican was lying, and this

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man who consented to being kicked out of the priesthood is now saying all of those people were lying, and you ought to believe him. Let me go back to the article: Nash, who has not been charged with a crime, as filed a defamation suit against his main accuser. And remember this. I read to you where the diocese in Juneau has come to the aid of this victim and are defending him against this lawsuit. But what about Creighton University, where I went to undergraduate school, and Creighton Law School, which is the place I got my law degree from? Let me continue with the article: The Catholic Diocese of Juneau, Alaska, announced Nash's dismissal last week in an agreement that will allow him to receive his pension at age 65. Nash filed a defamation suit against Joel Post, now living in Minnesota, in 2004. The lawsuit followed two years of investigation into allegations that Nash had molested Post while serving as a youth pastor 25 years ago. The Diocese of Juneau settled with Post for \$175,740. When the Catholic diocese had all these Catholic lawyers, you think that they're going to agree to award \$175,000 to a victim, if there's not overwhelming evidence? But what did Creighton do? Creighton officials decided Wednesday that Nash, now in his mid-fifties, could remain a full-time student. I wouldn't say, don't let him be a student. He rapes little boys, not grown men, as far as we know. Let him go to Creighton. That's a good environment for him, Catholic milieu; very sympathetic, very accepting. Final paragraph: Patrick Borchers, dean of the law school, said his review of the circumstances surrounding Nash's dismissal showed no evidence, not that Nash had not committed a crime. Lawyers are careful. Listen to this. Patrick Borchers, dean of the law school, said his review of the circumstances surrounding Nash's dismissal showed no evidence that Nash had committed a crime that would make him unfit to be a student; not that he hadn't committed a crime, not that he hadn't molested these children, not that the Vatican had behaved incorrectly in kicking his donkey out, not that Bishop Michael Warfel had lied or the victims had lied or anybody else who served...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...as active participants in this investigation had lied. He said the man had not committed a

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crime that would keep him from being a student. Not having been charged, he couldn't be convicted of a crime, but this dean, if the report is correct, did not say that the man had not been convicted of a crime. He said he had not committed a crime with the proviso that would make him unfit to be a student. I have said that people convicted of various sexual offenses--but I had not talked about those committed against children--should not collectively, absolutely, and without exception be barred from living in certain places. This man, from what I've read, did not face allegations of sexually assaulting grown men, because they probably would have done something to him.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: So maybe he's fit to go to Creighton. Thank you, Mr. President.

SENATOR CUDABACK: Further discussion on the FA203? Senator Chambers, there are...you're recognized, and this will be your third time, as you know.

SENATOR CHAMBERS: Thank you, Mr. President. I thought that was my third time, but I should have realized that I would have been apprised of that fact. So now I want to touch again on what this amendment would do. My amendments have been designed to spotlight the idiocy of this bill. This is the next to the last amendment that I had filed. The provisions of this act shall not apply until after an individual member...oh, that's the last one. Oh no, it is...this is the one before us...shall not apply until after an individual member of the species *Homo sapiens* in utero is of sufficient size to be visible without the aid of a microscope. If you can't see it unless you have a microscope, the definition that Senator Foley has in this bill of an unborn child does not apply, for purposes of a criminal law and a criminal charge. The last amendment would say this: "No textbook shall be used in any public school which uses any term other than 'unborn child' to describe every stage of development in utero of a member of the species *Homo sapiens*, from the point or instant of conception until birth, whether vaginally or by Cesarean section." That would have been the last amendment, but time has fled. It seems like only yesterday that this started,

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and the time has moved on the winged feet of Mercury, and all things must come to an end, including this session. And I want to make it clear, while the Speaker is in the chair, that he bludgeoned me away from my pledge to discuss all of these congratulatory and other inconsequential resolutions. I had said that's what I was going to do. He persuaded me not to stick by that pledge. Since I made it on the floor, I want to make the same statement on the floor...I want to make the statement on the same floor in the same venue where I uttered the pledge. I am not of a mind to carry through on that, as a direct result of dealing with the Speaker. But I don't want Senator Jensen to take too much comfort in that, because his bill is next up, and the Speaker has not been able to pry me away from these other bills. And my friend, who may not be my friend for much longer, Senator Stuhr, knows that hers is next up. I'm going to take my time on these bills. I'm going to do all I can at this stage to stop every bill that I think ought to be stopped. If they make it to Select File and we get to them again, I will take all the time that I can at that stage, also.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: And I will enjoy it. And I would advise my colleagues to just enjoy it, also, because when you are confronting something that is going to be, ride with the tide and go with the flow, and pray that if there be a God in heaven, that you all pray to everyday, He may answer your fervent prayer that I be struck dead, in typical "Chrishian" fashion. And we'll just put that to a test and see how that pans out. Anything short of that, I'll be at my post, earning my \$12,000-a-year salary. Was that my closing, Mr. President?

SPEAKER BRASHEAR: No, it was not, Senator Chambers. That was your third time speaking.

SENATOR CHAMBERS: Oh, thank you, Mr. President.

SPEAKER BRASHEAR: Thank you, Senator Chambers. Senator Foley.

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SENATOR FOLEY: Thank you, Mr. President. There was a time in my life when I paid a great deal of attention to the National Football League. I don't do that as much these days. I'm busy with family and so forth. But many of you probably do watch NFL games quite frequently. You'll know the name Rae Carruth. Rae Carruth was a very, very talented football player. In fact, he signed a \$3.7 million contract with the Carolina Panthers. He was their first-round draft pick a few years ago. Rae Carruth impregnated his girlfriend, Cherica Adams, and became indignant when Cherica refused his advice to have an abortion. She wanted her child. She was thrilled to be pregnant. The Washington Post reported that she used to play classical music to soothe her unborn child. She named her unborn child. She would take special nutritional supplements and so forth to assist her unborn child, and this enraged Rae Carruth. Rae Carruth arranged for the assassination of Cherica Adams, and he succeeded in killing her. But he did not succeed in killing the unborn child. Chancellor Adams is alive today; he's six years old. He has cerebral palsy, and he'll suffer with that disease for the rest of his life, because he was oxygen deprived when his mother was assassinated. The bill before you is properly drafted. It's good text, it's good language, you can rely on it. It's been scrutinized by two Judiciary Committees under two different Chairmen. They don't put slop out on the floor. This is good language. If I were to step outside this building and kick the first stray dog that crossed my path and broke the dog's leg, under statutes that I voted for, Senator Chambers, I could be criminally prosecuted for the injuries sustained by the dog. But if I walked further on down the sidewalk and kicked a pregnant lady and inflicted permanent brain damage on her child, I could never be prosecuted for what I did to that child. That's the problem with the law today. That's what LB 57 addresses. We've been through eight hours now on this bill. It's time to move forward and take some votes. I'm going to ask you to vote yes on cloture, I'm going to ask you to vote no on the pending amendment, and I'll ask you to vote yes to advance the bill to Select File. When considering those votes, I ask you to be fair. It's not fair to subject a bill to hours and hours and hours of hate speech, bigotry, and frivolous amendments. We need to rise above that and be fair to each other. We've got a difficult session ahead of us.

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SPEAKER BRASHEAR: One minute.

SENATOR FOLEY: If you intend to vote no on this bill, do me this favor: The next time a member of your family or a friend becomes pregnant, I ask you to go to that woman and ask her if she believes her unborn child deserves protection from drunk drivers and murders and rapists. And ask her if she thinks if that child is damaged seriously, if the person who inflicted that damage should not be prosecuted. I guarantee you she'll say yes. I ask you to vote yes on cloture, no on the amendment, and yes to advance the bill. Thank you, Mr. President.

SPEAKER BRASHEAR: Thank you, Senator Foley. Mr. Clerk, you have a motion on the desk?

CLERK: I do, Mr. President. Senator Foley would move to invoke cloture, pursuant to Rule 7, Section 10, I believe.

SENATOR CHAMBERS: (Microphone malfunction) Mr. President, (inaudible).

SPEAKER BRASHEAR: Senator Chambers, the motion for cloture is a priority motion. It's not debatable, and we do proceed immediately to a vote on the motion. Members, the first vote is the motion to invoke cloture. Senator Foley, for what purpose do you rise?

SENATOR FOLEY: Mr. President...Mr. Speaker, I ask for a call of the house and a roll call vote.

SPEAKER BRASHEAR: There has been a request for a...to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call.

SPEAKER BRASHEAR: Thank you. Members, the house is under call. Senators, please record your presence. Those unexcused senators

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please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Cudaback, the house is under call. Please report to the Chamber. The house is under call. All members being present and accounted for, members, the first vote is the motion to invoke cloture. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken, Legislative Journal page 378.)
36 ayes, 4 nays on the motion to invoke cloture.

SPEAKER BRASHEAR: The motion to invoke cloture is adopted. Members, we will next proceed to vote on Senator Chambers' amendment, FA203. All those in favor signify by voting aye; those opposed vote no.

SENATOR CHAMBERS: (Microphone malfunction) Roll call vote.

SPEAKER BRASHEAR: Roll call vote has been requested.
Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal
pages 378-379.) 2 ayes, 31 nays, Mr. President, on the
amendment.

SPEAKER BRASHEAR: The amendment is not adopted. Members, we will now proceed to vote on the advancement to E & R Initial of LB 57. All those in favor signify by voting aye; those opposed, nay.

SENATOR CHAMBERS: (Microphone malfunction) Roll call.

SPEAKER BRASHEAR: A roll call vote has been requested.
Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal page 379.)
39 ayes, 1 nay on the advancement, Mr. President.

SPEAKER BRASHEAR: LB 57 is advanced. The call is raised.
Mr. Clerk.

CLERK: Mr. President, I have new bills. (Read LB 1236-1250 by

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title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal pages 379-382.)

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) We now move on to Select File. Mr. Clerk, please.

CLERK: Mr. President, LB 548 on Select File. Enrollment and Review amendments were adopted last spring. Pending when the Legislature adjourned for the year was...Senator Schrock had AM1696. Senator, I have a note that you want to withdraw.

SENATOR CUDABACK: It is withdrawn.

CLERK: Well, just a moment. Senator Beutler, you had an amendment to Senator Schrock's you want to withdraw, as well; is that right, Senator?

SENATOR CUDABACK: It is withdrawn, as well.

CLERK: Senator Schrock would move to amend, Mr. President, with AM1864. (Legislative Journal page 295.)

SENATOR CUDABACK: Senator Schrock, you're recognized to open on your amendment to LB 548.

SENATOR SCHROCK: Mr. President, members of the Legislature, I'd like to thank Senator Jensen for allowing us to use his bill as a vehicle, and I will try to explain to you about LB 548. LB 548 is a power bill that would allow for advantageous interest rates in the case of federal or state mandates. I'd like to thank Senator Beutler and Senator Chambers for their help in coming to agreement on AM1864, which I shall be asking the body's permission to substitute for AM1696. During the last session, the body suspended the rules so we could place AM1696 on LB 548. I also want to thank Senator Jensen again for allowing us to use his bill for this purpose. I believe AM1864 we have addressed the concerns raised by Senator Beutler and Senator Chambers regarding an appeals process. Senator Beutler will be discussing that portion of the amendment. To refresh

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the body's memory as to what our amendment will do, I'll give you a brief summary. AM1864 is substantially the same bill as LB 336, which was advanced from the committee unanimously. There were no opponents to the bill at the time of the hearing. It creates the Public Entities Mandated Project Charges Account. It allows public power utilities an additional financing option for power facility projects that are mandated by either the federal or state law. Under this bill, the governing board of a public utility would have the option to finance and pay for a mandated project by authorizing a separate customer charge on each customer's electric service bill, representing the customer's portion of the mandated charge. The public power entity would also have the authority to issue bonds for such mandated projects, with the payment of the bond secured by a first lien on the revenue from the separate customer charges. So the bonds could be secured by that charge. The revenue stream from such mandated project charges would be dedicated solely to paying mandated project charges and financing costs, and would remain in place until such costs are paid. Mandated projects must be capital projects mandated by federal or state law, or a regulatory agency. The act is structured so as to enable public power entities to obtain favorable financing to pay for mandated projects. The dedicated revenue stream from the separate customer charges provide a secure source of payment for mandated project bonds and would allow public power entities to secure favorable terms from bond markets. The amendment allows a person to file a petition for judicial review in the Supreme Court within ten days after the authorizing resolution as been adopted, and review is limited to determining whether the financial calculations formula or other method adapted by the public entity is fair and reasonable and nondiscriminatory allocation to the public entity's customers of mandated project charges needed to pay for the mandated project. This portion of the amendment can be better explained by Senator Beutler. Since 1994 this type of financing is currently being used by other states. The Mandated Project Charges Act can reduce by 70 cents per \$1 the annual revenue needed to meet debt payment. For example, the savings on a \$400 million debt would be approximately \$15 million. This reduction is possible because of the AAA rating that may be obtained because of the dedicated charges and bond structure. As you know, we are a 100 percent

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public power state, and I often tell people that our rates, compared to our bordering states, are 20 percent lower, with probably the exception of Wyoming. This is another way we can do right by our consumers and keep our electric costs down. So when mandated projects are mandated by the state or federal or a governmental regulatory agency, they can secure separate funding, get favorable bond ratings, and there can be a revenue stream dedicated to retiring that debt. I thank you for your time. I hope that my opening has been sufficient. If you have questions, I will try and answer. This is brought to us by the power industry. I think it's reasonable, and I hope you feel the same way about it. With that, I will conclude my opening remarks. Thank you, President.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on AM1864. Open for discussion on that motion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, last session I was offering what I had called the Chambers amendment, which was designed to prevent discrimination based on sexual orientation, when bills were brought by large entities or whatever. I don't know whether that language remains in this proposed amendment, because it guts the bill and would take out that provision, I suppose, which had been attached to the original form of LB 548. I'm not really caught up on this bill at present, but it doesn't make any difference, because I'm going to get my time on this bill, too. If I wind up supporting it, it may not have to go to cloture, but I'm going to take time on this bill and before I do that, I need to ask Senator Schrock a question.

SENATOR CUDABACK: Senator Schrock, would you yield to a question?

SENATOR SCHROCK: Yes, I will.

SENATOR CHAMBERS: Senator Schrock, this is the first presentation to the body of this amendment, as far as discussing it. Is that true?

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SENATOR SCHROCK: That is correct.

SENATOR CHAMBERS: Thank you. Mr. President, this amendment may be subject to a division of the question, and that's what I'm going to ask for, right now. And we're so close to recessing that if we don't get it done today, we can...people will have time to think about it and get over it, but I want a division of the question on this amendment.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, would you like to take that up now, or would you like to defer it until after we recess for lunch, being as it will take up some time?

SENATOR CHAMBERS: Would you...I didn't hear the first part of what you said.

SENATOR CUDABACK: You...we may take up your request now, but it would be easier, perhaps, if you agree to take this up upon recessing, and we can go ahead and discuss the bill in the next ten minutes.

SENATOR CHAMBERS: Oh, yes. I agree. That's why I said we didn't have to do it today, but I wanted to get it in at the out start, so those who have an interest in the bill could start looking at how they think this should occur. But may I go ahead and take the rest of my time, since my light was on?

SENATOR CUDABACK: You may.

SENATOR CHAMBERS: Okay. Members of the Legislature, so that the record is clear, what Senator Schrock said during his opening about some of us having looked at this bill and come to an agreement is correct, to the best of my recollection. I'm speaking here only for myself. Others may have a different recollection, but I had been talked to, not only by Senator Schrock but by lobbyists and other representatives of the power groups or entities that would be involved. But I had also told a couple of the lobbyists, and I told Senator Jensen, since his name is on the bill, that circumstances have changed. And I made a pledge, and I must begin delivering on it, and his

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happens to be the first bill up, and I'm going to do what I said I would do. Senator Foley, before he hightailed it off the floor, since he got what he wanted from the suckers, had said something about hate speech. I don't think his presentations were hate speech when he lied about what I said on the floor. I think it was just a speech of a man who was emotionally wrought up. He was distraught, he lost his way, became disoriented, and lyingly said that I had uttered words which I didn't. I think it was lying on his part, but I don't think it was motivated by hate. So if that's going to bother is appetite and his digestion, I want him to get over it.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: If, on the other hand, he thinks that my criticism of child abuse at the hands of Catholic priests is hate speech, then he needs to have his morals looked at, because I'm going to continue to talk about any large organization or entity which condones, covers up, endorses, or in any manner facilitates the abuse of children. I will continue to do that. Now I do think that there are people who hate priests who do these things. They hate bishops and archbishops, cardinals and popes who go along with it. So I forgive Senator Foley. (Laugh) I have to say like the one he worships, forgive...I forgive him because he knows not what he does, he knows not what he says, and that other day he was just carried away...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...by the emotions of the moment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers, and thank you also for agreeing to hold off on the division question. Senator Beutler, on the Schrock amendment.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, if you're like me, you've probably lost track of the procedures we've followed on this bill. And I want to just remind you, and in that process I'm sort of reminding myself. And, Senator Jensen, please correct me if I'm wrong here. I'll be watching

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to see if you shake your head yes or no. But this bill was originally Senator Jensen's bill. Is that correct? And you may recall that I believe it was on Select File that we amended it, and we amended into it some material that OPPD wanted very badly that defined and described a new procedure of theirs for approving bonds related to certain types of improvements. And in the process of doing that, we gutted the material that Senator Jensen had in the bill altogether. Is that correct, Senator Jensen?

SENATOR CUDABACK: Senator Jensen?

SENATOR BEUTLER: Okay. We had had some discussion on that bill previously, and Senator Chambers had had some involvement and had a couple of amendments adopted, but all of that was removed from the bill when this body approved, last session, the OPPD amendment. Then after that there was some further discussion and some points raised by Senator Chambers and others, with respect to the new material in the bill, which was the OPPD process. Subsequently, then, the bill was pulled from the agenda, so now it's back before us. It has already attached to it the OPPD amendment. There is now a new Schrock amendment. For purposes of clarity, it wipes out the OPPD amendment, but it really doesn't. It restores everything but a portion that it adds that has to do, basically, with judicial review. The main sticking point last time around, and the folks from OPPD have been very good about working with people over the summer and fall to work it out, but the main sticking point was that there was absolutely no judicial review when their board made a decision that rates were okay, that there was no problem with them being discriminatory, and so that lack of a process of judicial review was the main sticking point. And with this amendment, they are agreeable to a judicial review process. It's a very short window of time, ten days, in which somebody who's aggrieved by the fact that these rates may not be set in a fair and nondiscriminatory manner, that they can raise the issue to the court. There's an expedited kind of process described for the courts looking at this material, all done in a bit of an unusual fashion, but understandable in the sense that they're looking to get to the bond market fast on these types of issues. And so, in order to be sure that there's not too great a time

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period between the time they authorize the bonds and the time they can actually sell the bonds, we've...the compromise was to work with a very short window of judicial review. And you can read that material on...it starts on the bottom of page 6, subsection (4). It describes the process on pages 6 and 7, and it's all very procedural and boring. I've given you the essentials of it, I think. And, Senator Jensen, I would yield to you, if I've made any misstatement, or you have anything further to add.

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. Mr. Clerk, items?

CLERK: Mr. President, I have some new bills. (Read LB 1251-1263 by title for the first time.) New constitutional amendments, Mr. President: LR 275CA is by Senator Landis. It proposes an amendment to Article VIII, Section 12, of the Nebraska Constitution.

I have a series of items to read, Mr. President. Your Committee on Education, chaired by Senator Raikes, reports LB 860 and LB 795 to General File. Amendments to be printed: Senator Preister to LB 901; Senator Byars, LB 87; Senator Baker, LB 248; Senator Landis, LB 75; Senator Landis, LR 18CA; Senator Don Pederson, LB 605; Senator Don Pederson, LB 605A. I have hearing notices from the Revenue Committee. I have a motion by Senator Loudon to withdraw LB 1129. A series of name adds: Senator Combs to LB 841; Senator Dwite Pedersen, LB 841; Senator Aguilar, LB 845; Senator Burling, LB 851; Senator Burling, LB 862, LB 915; Senator Combs to LB 1150; and Senator Flood to withdraw his name from LB 1129. (Also, Senator Schimek to add her name to LB 1256; and a motion by Senator Chambers to LB 548, Legislative Journal pages 383-403.)

SENATOR CUDABACK: Senator Schrock.

SENATOR SCHROCK: Mr. President, members of the Legislature, I

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would like to provide you a little more information. One of the things that worry most of our businesses, and public power is no exception to that, is what kind of...what are mandates going to...how are they going to affect them? This bill, as amended, would allow that public entities the option to scrutinize the financing of mandated projects, resulting in lower financing costs borne by customer rates. Some of the projects that could be mandated would be based on environmental issues. They may have to...a public power plant may have to clean up their smoke stacks or have a project to reduce emissions or wastewater. Could be a packing plant that is mandated to not discharge waste and to take care of it in a different manner, although this doesn't refer to packing plants, so I shouldn't have said that; it refers to public power only. It could be...it could have to do with renewing...with renewable energy projects. It could have...it could do with Nuclear Regulatory Commission and any mandates they would have on our two nuclear plants. And this would provide a separate...when you get your bill in the mail, it would say on the bill that this is a separate charge. Of course, it would be itemized and added in, but you'd have one total. But it would be itemized and the customer would know how much they were paying for that current issue. It requires an annual explanation to the customers. It allows for an appeal to the Supreme Court after the passage of a public entity's resolution allowing for a mandated project charge. And most important of all, it would allow that the bonded indebtedness for that could get a high rating for bonds. It could be a AA or a AAA, but it would be a very high rating. So I think the consumer would benefit from this, and it could...it would increase the...it would decrease the interest rates that they would be paying on this bonded indebtedness. And of course, if a project would cost \$300 million, it would save \$15 million to the customers of this state. I have no problem defending public power in this state. You go to other states, they wonder what that's all about. Public power is important to the citizens of this state, from the standpoint that our utility industry has one master, and that's the people that use the energy. Other states, why, the power industries are for profit and they make good money, as they should. But if you've been around awhile, you know how beneficial that is. I think it's very attractive to other industries seeking to locate in Nebraska to know that

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we have public power. Senator Flood, I don't know if you would have your steel industry in Norfolk if it wasn't for public power. That's probably up for debate, but I think it's been very important to Nucor Steel. So we're trying to help out the power industry. We're trying to help the citizens of this state keep our electric rates down. And if you've paid any natural gas bills lately, if you've paid any diesel fuel bills lately, if you've paid any heating oil fuel bills lately, you'll understand how appreciative we should be, as citizens of the state, that we are a public power state. So that's the reason the bill has been brought to you. It's the reason that it was...that the rules were suspended last year and it was amended into Senator Jensen's bill, which he no longer needed. I thank Senator Jensen for that, and I would like for this body to move on and push this bill forward. So I thank you for your time, and if you have any questions I'd be glad to try and answer them.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: One minute. Thank you, Senator Schrock. Members, as a matter of prudence, we are proceeding somewhat slowly here, because this is the tenth day of our legislative session. The Clerk's desk is remarkably clean. We know, through information technology, that all bills have been delivered to you, and we're simply trying to be extremely careful and make certain that if there's anybody who wants to give any kind of a high sign, you do it very quickly, before we proceed beyond a point of no return, with regard to the introduction of new legislation. Mr. Clerk.

CLERK: Mr. President, Senator Brashear would move to adjourn until Thursday morning, January 19, at 9:00 a.m.

SPEAKER BRASHEAR: Thank you, Mr. Clerk. The motion before the house is the adjournment until tomorrow, as specified. All those in favor signify by saying aye. Those opposed, nay. We are adjourned.

Proofed by: JAH